

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

BILL LIETZKE,

Plaintiff,

v.

TODD STRANGE, et. al.,

Defendants.

3:14-cv-00177-RCJ-WGC

**REPORT & RECOMMENDATION OF  
U.S. MAGISTRATE JUDGE**

This Report and Recommendation is made to the Honorable Robert C. Jones, United States District Judge. This action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4. It is recommended that Plaintiff's action be dismissed.

**I. BACKGROUND**

On April 3, 2014, Plaintiff filed an application to proceed in forma pauperis (IFP) (Doc. # 1)<sup>1</sup> and proposed complaint (Doc. # 1-1). On April 9, 2014, the undersigned issued an order denying Plaintiff's IFP application without prejudice because it was unsigned and did not include sufficient information to determine whether Plaintiff is able to pay the filing fee. (Doc. # 3.) The undersigned also noted that Plaintiff's proposed complaint indicated that he is a resident of Alabama and that the named defendants are all alleged to be residents of Alabama, and as such did not appear to be a basis for this district to exercise personal jurisdiction over the defendants. (*See id.*; Doc. # 1-1.) The order denying the IFP application advised Plaintiff that if he sought to resubmit his IFP application, it should be filed in the correct court. (Doc. # 3.)

On April 16, 2014, Plaintiff filed a document containing profane statements directed to the undersigned. (Doc. # 4.)

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<sup>1</sup> Refers to court's docket number.



1 let alone the "minimum contacts" necessary to establish jurisdiction in Nevada. *See Walden v.*  
2 *Fiore*, 134 S.Ct. 1115 (2014) (citations omitted).

3 While Plaintiff appears to contend that the court can exercise personal jurisdiction over  
4 the defendants simply by issuing a summons or waiver of service of summons form to the  
5 defendants in Alabama, this is not the case. "Federal courts ordinarily follow state law in  
6 determining the bounds of their jurisdiction over persons." *Walden*, 134 S.Ct. at 1121 (quoting  
7 *Daimler AG v. Bauman*, 571 U.S.---, ---, 134 S.Ct. 746, 753 (2014)). "This is because a federal  
8 district court's authority to assert personal jurisdiction in most cases is linked to service of  
9 process on a defendant 'who is subject to the jurisdiction of a court of general jurisdiction in the  
10 state where the district court is located.'" *Id.* (quoting Fed. R. Civ. P. 4(k)(1)(A)). "Nevada has  
11 authorized its courts to exercise jurisdiction over persons 'on any basis not inconsistent with...the  
12 Constitution of the United States.'" *Id.* (quoting Nev. Rev. Stat. § 14.065 (2011)). Accordingly,  
13 the court must determine whether the exercise of personal jurisdiction "'comports with the limits  
14 imposed by federal due process' on the State of Nevada." *Id.* (quoting *Daimler*, 134 S.Ct. at 753).

15 "The Due Process Clause of the Fourteenth Amendment constrains a State's authority to  
16 bind a nonresident defendant to a judgment of its courts." *Id.* citing *World-Wide Volkswagen*  
17 *Corp. v. Woodson*, 444 U.S. 286, 291 (1980)). "Although a nonresident's physical presence  
18 within the territorial jurisdiction of the court is not required, the nonresident generally must have  
19 'certain minimum contacts...such that the maintenance of the suit does not offend traditional  
20 notions of fair play and substantial justice.'" *Id.* (quoting *Int'l Shoe Co. v. Wash.*, 326 U.S. 310,  
21 316 (1945)) (further internal quotation marks and citation omitted). Here, there is no indication  
22 that the defendants had *any* contact whatsoever with the State of Nevada.

23 While defendants could conceivably waive this jurisdictional defect, the failure to pay the  
24 filing fee or submit a properly supported IFP application should still result in dismissal of the  
25 action and the administrative closure of this action in this district.

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**III. RECOMMENDATION**


**IT IS HEREBY RECOMMENDED** that the District Court enter an order **DISMISSING** this action **WITHOUT PREJUDICE** and administratively closing this case in this district.

Plaintiff should be aware of the following:

1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to this Report and Recommendation within fourteen days of receipt. These objections should be titled "Objections to Magistrate Judge's Report and Recommendation" and should be accompanied by points and authorities for consideration by the district judge.

2. That this Report and Recommendation is not an appealable order and that any notice of appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed until entry of judgment by the district court.

DATED: May 16, 2014

  
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WILLIAM G. COBB  
UNITED STATES MAGISTRATE JUDGE